

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-13-00039-CR**

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**Pedro Javier Quintero, Appellant**

**v.**

**The State of Texas, Appellee**

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**FROM THE DISTRICT COURT OF CALDWELL COUNTY, 421ST JUDICIAL DISTRICT  
NO. 2011-018, HONORABLE TODD A. BLOMERTH, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

A jury found Pedro Javier Quintero guilty of five counts of aggravated sexual assault and assessed sentences of twelve years in prison for each count. The trial court directed that Quintero serve the sentences for counts one through three concurrently and serve the sentences for counts four and five consecutively for a total period of 36 years in prison. By his sole issue on appeal, Quintero contends that he suffered harm from the trial court's erroneous charge on the law of parties. We will affirm.

The victim testified that Quintero was one of five men who together sexually assaulted her in a variety of ways spelled out in the five counts of the jury charge. The trial court instructed the jury that it could convict him based on his actions as an individual or as a party to the actions of the four other men allegedly involved in the offenses. Quintero complains on appeal that

(1) the charge allows his conviction for the offense of aggravated sexual assault merely on the basis he was a party to the commission of K.B.'s sexual assault by Rainey, Jackson, Lozano, or Miranda; and (2) the charge did not require the jury to find Quintero assisted an assailant who penetrated K.B. while that assailant worked in concert with another who committed sexual assault during the same episode.

This Court has rejected similar arguments by other men convicted of these crimes in this incident. *Miranda v. State*, 391 S.W.3d 302, 309 (Tex. App.—Austin 2012 pet. ref'd); *Rainey v. State*, No. 03-11-00741-CR, 2013 Tex. App. LEXIS 1756 at \*16-\*17 (Tex. App.—Austin Feb. 22, 2013), *pet ref'd*, No. PD-0532-13, 2013 Tex. Crim. App. LEXIS 920 (June 12, 2013). Despite Quintero's insistence that this Court "wrongly decided" the issues previously, we are not persuaded to reach a different resolution of the issues in this case.

Finding no reason to reverse presented, we affirm the judgment of conviction.

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Jeff Rose, Justice

Before Justices Puryear, Rose and Goodwin

Affirmed

Filed: August 23, 2013

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